APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,663	03/27/2000	Gary L Gastineau	11657-002001	3493

26161   7590   12/30/2003

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EXAMINER
GREENE, DANIEL L

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/536,663	GASTINEAU ET AL.
	Examiner	Art Unit	
	Daniel L. Greene	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 October 2003</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 10/27/03 have been fully considered but they are not persuasive.

2.   In reference to claims 1, 13, 20, 2, 14, and 22,   the Applicants state that, " There is no statement that Kane teaches or suggests all of the claim limitations of the independent claims...." the Examiner agrees. Because Kane did not teach or suggest all of the claims limitations, the Examiner elected to do the 103-type rejection. As per precedent, one cannot show non-obviousness by attacking the references individually where the rejection is based on a combination of references. *In re Young, 159 USPQ 725 (CCPA 1968).*

3.   *The Applicant further states that Kane has nothing to do with providing an "approximate intra-day value of the fund during the trading day " [NAV]. However, the Applicant does point out the cited reference of Kane, Col. 10 ,lines 65-67, Col. 11, lines 1-8, which teach about intra-day trading, executing buy, sell, sell short, and buy to cover trades automatically which obviously requires knowing the value of a portfolio, which requires knowing the value of each of the entities within the port folio on a timely basis. The Applicant states " ... the systems monitors ... the prices of individual stocks ...". The Examiner submits that the sum of the values of the individual stocks provides a NAV and Kane discloses that concept in stating, " Wealth Wizard manages the portfolio in real time to optimize profit or cut losses." The Applicant further states, "...but nothing here either has anything to do with receiving quotes, and nothing here has anything to*

with determining whether a received quote corresponds to a security in any table."

Figure 19 shows" 29 f the 30 stocks being tracked are open with 15 up from the

previous close, 14 down from previous, 13 up from open and 15 down from open." The

Examiner submits that that to maintain the table of Figure 19, it would be obvious to a

person of ordinary skill in the art at the time of the invention to understand that to update

securities in the table, quotes (prices) would have to be matched to corresponding

securities in the table.

In reference to claims 8 and 17, the Applicant submits that since Kane's table

does not show "quantity of shares held in the fund", that a spreadsheet showing that

data would be unique, patentable and non-obvious. The Examiner disagrees. It would

have been an obvious matter of design choice to modify the teachings of Kane, to

provide a column in the spreadsheet showing the number of shares held. However,

Kane does maintain that value to provide for the profit and loss calculations. Since the

applicant has not disclosed that *quantity of shares held in the fund is displayed in a*

spreadsheet solves any stated problem in a new or unexpected way or is for any

particular purpose which is unobvious to one of ordinary skill and it appears that the

claimed feature does not distinguish the invention over similar features in the prior art

since.

As per claims 9 and 18, their limitations of receiving quotes and determining if

they are securities corresponding to a security in any table has been previously

addressed and require no further amplification of prior art.

In reference to Claims 10, 11, and 19, the Examiner maintains his objection that there is nothing original, unique or non-obvious about " calculating a new value of a security position in the table as of the trading day by retrieving data comprising a number of shares in the position and multiplying the number of shares by the current quote (price) for the security. Since the applicant has not disclosed that *calculating a new value of a security position in the table as of the trading day by retrieving data comprising a number of shares in the position and multiplying the number of shares by the current quote (price) for the security* solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since.

In reference to Claims 3, 4, 15, and 16, the Applicant maintains his theme in reference to calculating a NAV proxy. The limitation of the NAV was addressed in the previous discussion of Claims 1, 13, 20, ... The Examiner submits that updating a portfolio or calculating a NAV is neither unique nor original as previously shown and discussed.

As per Claims 5-7, and 21 the use of encryption and decryption techniques is well known to protecting data as per the prior art presented.

All of the stated grounds if objection and rejection have been traversed, accommodated, or rendered moot.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,2,8-11,13,14,17-19, 20 and 22 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Kane U.S. Patent 6,317,728B1 [Kane '728], and in further view

of NEWTON'S TELECOM DICTIONARY.

As per claims 1,13,20.

Kane '728 discloses the claimed invention except for receiving a file having

adjusted portfolio information in an encrypted format. However, Kane '728 does teach

the use of Secure Socket Layer, SSL, in communication over the Internet. Col. 7, lines

55-67, Col. 17, lines 57-65. NEWTON'S TELECOM DICTIONARY, page 710 teaches

that it is known in the art that a SSL protocol is a transport level technology for

authentication and data encryption between a Web Server and a Web Browser. It would

have been obvious to one having ordinary skill in the art at the time the invention was

made to describe the communications system of Kane '728 as receiving in encrypted

format a file having adjusted portfolio information because of the use of the SSL

protocol. (The Applicant replaced adjusted portfolio information with a file having

adjusted portfolio information, which is considered one in the same. Receiving data by

its very nature is considered receiving a file.)

Kane '728 discloses the claimed invention except for decrypting the file having

the-adjusted information to provide security positions in the fund portfolio. It would have

been obvious to one having ordinary skill in the art at the time of the invention was

made to decrypt the file information having the adjusted security positions since it is

known in the art that to display or utilize data in calculations, it is normally decrypted

and returned to it's recognizable format.

Kane '728 further discloses calculating the intra-day net asset value proxy for the

fund by applying prices received from a quote feed to the security positions in the fund

portfolio. Col. 10, lines 65-67, Col. 11, lines 1-8.

As per claims 2 , 14 and 22.

Kane '728 further discloses:

disseminating the intra-day net asset value proxy for the fund on a continual

basis throughout a trading day. Col. 8, lines 25-32.

As per claims 8 and 17.

Kane '728 further discloses:

decrypting a portfolio file received from the fund and populating a table with fund

security-positions including comprising a security identifier for each security position and

quantity of the shares of each of the security positions held in the fund. Fig.

As per claims 9 and 18.

Kane '728 further discloses:

continually receiving quotes from a quote feed; and determining whether a currently received quote corresponds to a security in the table. Col. 10, lines 47-67, Col. 11, lines 10.

As per claims 10.11. and 19.

Kane '728 discloses the claimed invention except for the specific method of calculating a new value ~~of the position of the security~~ a security position in the table as of the trading day by retrieving data comprising a number of shares in the position and multiplying the number of shares by the current quote for the security. However, it is inherently obvious that to calculate the position (value of the holding of a security) of a security, it is well known and understood that the number of shares multiplied by the current quote equals the value position of the security.

2.   Claims 3,4,15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kane '728 and NEWTON'S TELECOM DICTIONARY as applied to claims

1,2,13,14,15,16, 20 and 22 above, and further in view of Wolfberg et al. U.S. Patent

5,214,579 [Wolfberg '579]

       As per claims 3 and 15.

       Kane '728 discloses the claimed invention except for wherein the portfolio

information is adjusted to reflect any transactions made on the prior trading day. Kane

'728 does teach managing the portfolio in real time and taking into account all costs to

optimize profit or cut loss. Col. 10, lines 47-67, Col. 11, lines 1-17. Kane '728 does not

specifically provide the mathematics for the determination of the profit/loss. However, it

is inherent in the determination of profit/loss that all costs be incorporated into the

calculations when made available. Wolfberg '579 teaches that it is known in the art to

provide wherein the portfolio is adjusted to reflect any transactions made on the prior

trading day. Fig. 15A-B. It would have been obvious to one having ordinary skill in the

art at the time the invention was made to provide the accounting system of Kane '728

with the wherein the portfolio is adjusted to reflect any transactions made on the prior

trading day of Wolfberg '579 in order to provide accurate up to date figures to show real

time profit/loss.

As per claims 4 and 16.

Kane '728 discloses the claimed invention except for wherein the portfolio information is adjusted to ~~reflect credits and debits~~ take into consideration factors such as dividend credits and expenses attributable to the current trading day.

Kane '728 does teach managing the portfolio in real time and taking into account all costs to optimize profit or cut loss. Col. 10, lines 47-67, Col. 11, lines 1-17. Kane '728 does not specifically provide the mathematics for the determination of the profit/loss. However, it is inherent in the determination of profit/loss that all costs be incorporated into the calculations when made available. Wolfberg '579 teaches that it is known in the art to provide wherein the portfolio information is adjusted to reflect credits and debits take into consideration factors such as dividend credits and expenses attributable to the current trading day. Fig. 15A-B.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the accounting system of Kane '728 with the wherein the portfolio information is adjusted to reflect credits and debits take into consideration factors such as dividend credits and expenses attributable to the current trading day of Wolfberg '579 in order to provide accurate up to date figures to show real time profit/loss.

3.   Claims 5-7, and 21 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Kane '728 , NEWTON'S TELECOM DICTIONARY as applied to
claims 1,2,13,14,20 and 22 above, and further in view of Atkins U.S. Patent
5,875,437 [Atkins '437].

As per claim 5.

Kane '728 discloses the claimed invention except for wherein the net asset value
proxy calculation is executed within a trusted system. However, Kane '728 does
disclose encryption and SSL Internet protocol.

Atkins '437 teaches that it is known in the art to provide wherein the net asset
value proxy calculation is executed within a trusted system. Col. 32, lines 48-60. It
would have been obvious to one having ordinary skill in the art at the time the invention
was made to provide the operating system/program of Kane '728 with the wherein the
net asset value proxy calculation is executed within a trusted system of Atkins '437, in
order to protect against non-authorized personnel from gaining access to the
information.

As per claim 6.

Kane '728 discloses the claimed invention except for wherein the trusted system
is a comprises physical hardware and an operating system configuration in which
domain configuration and trust relationships are established to determine control access

to information in the trusted system. However, Kane '728 does disclose encryption and SSL Internet protocol.

Atkins '437 teaches that it is known in the art to provide wherein the trusted system is a physical hardware and operating system configuration in which domain configuration and trust relationships are established to determine access to information in the trusted system. Col. 32, lines 48-60. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the operating system/program of Kane '728 with the wherein the trusted system is a physical hardware and operating system configuration in which domain configuration and trust relationships are established to determine access to information in the trusted system of Atkins '437, in order to protect against non-authorized personnel from gaining access to the information.

As per claims 7 and 21.

Kane '728 discloses the claimed invention except for wherein the relationship established in the trusted system is denying denies access to the decrypted portfolio file from outside of the calculation process.

However, Kane '728 does disclose encryption and SSL Internet protocol.

Atkins '437 teaches that it is known in the art to provide wherein the relationship established in the trusted system is denying access to the decrypted portfolio file from outside of the calculation process. Col. 32, lines 48-60.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the operating system/program of Kane '728 with the wherein the relationship established in the trusted system is denying access to the decrypted portfolio file from outside of the calculation process of Atkins '437, in order to protect against non-authorized personnel from gaining access to the information.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Daniel L. Greene whose telephone number is 703-306-

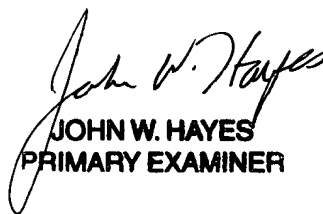5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone

numbers for the organization where this application or proceeding is assigned are 703-

305-7687 for regular communications and 703-305-7687 for After Final

communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

1113.

DLG
December 22, 2003

JOHN W. HAYES
PRIMARY EXAMINER